

REMARKS

Presently, claims 1-3, 5-8, 10-18, 22-23 and 25 are pending in the application. Independent claims 1 and 25 have been amended. Support for the amendments to the independent claims may be found, for example, in previously entered claims 1 and 25. Accordingly, no new subject matter has been added by the foregoing amendments.

Interview Summary

Applicants and the undersigned thank Examiners Chin and Koenig for courtesies extended during a telephonic phone interview conducted on September 8, 2010. During the Interview, the Examiners acknowledged that U.S. Patent Application Publication No. 2006/0041921 to Hane ("Hane") does not teach the concept of receiving a request from an advertiser, where the request includes a minimum bandwidth requirement and selecting an advertisement based on that requirement. See Interview Summary dated September 13, 2010.

In addition, during the Interview, the Examiners suggested minor claim amendments that would help to advance prosecution. Such language has been incorporated into the claims by way of the foregoing amendments to independent claims 1 and 25. Applicants note that the Examiners' proposed amendment was not applicable to independent claim 22. The amendments submitted herewith are consistent with those discussed during the Interview. Applicants further thank the Examiners for indicating that entry of the foregoing amendments would be permitted.

Entry of Rule 116 Response

Entry of the amendments herein are respectfully requested because such amendments, in combination with the remarks, render moot the outstanding rejections under 35 U.S.C. § 103, and thus resolve all issues raised by the Examiner in the Final Office Action. Also, at the telephone Interview, the Examiner indicated that entry of the response would be permitted and the finality of the rejection would be withdrawn. In addition, the Amendment places the application in condition for allowance or in better

form for appeal by materially simplifying the issues and does not result in a net addition of claims to the application. No new matter has been added to this application by the Amendment.

New Matter

The Examiner has rejected claims 1, 3, 5-8, 10-18 and 25 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner contends that “no where in the cited paragraphs is the calculated price calculated such that the price ‘does not exceed the maximum bid’ recited.” In response, Applicants have removed such language from independent claims 1 and 25. Accordingly, the Examiner’s New Matter rejection has been overcome. Applicants respectfully request reconsideration and withdrawal of the new matter rejection of claims 1, 3, 5-8, 10-18 and 25.

Claim Rejection – § 103(a)

The Examiner has rejected claims 1, 3, 5-20, 22-23 and 25 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,661,516 to Carles (“Carles”), in view of U.S. Patent No. 5,652,615 to Bryant (“Bryant”), further in view of Hane and further in view of U.S. Patent No. 6,487,721 to Safadi (“Safadi”). Applicants respectfully traverse this rejection.

Carles teaches a method of providing advertisements to individual subscribers by tagging commercials with routing information and converter addresses. Carles uses a database of “smart” commercials containing embedded information identifying the categories of recipients for the message. The commercials are inserted into the data stream based on a previously created schedule.

Bryant teaches architecture for transmitting programming to customers. In Bryant, “base” and “fill” segments are transmitted concurrently to the customer. The number of fill segments transmitted in one signal is selected based on the bandwidth of the signal.

Thus, four 1.5Mb/s segments or two 3.0Mb/s segments may be concurrently transmitted on a 6Mb/s signal. Column 5, lines 4-9.

Hane teaches an “electronic exchange for the purchase, sale, and/or trading of advertising or other electronic delivery obligations.” Paragraph 25. The system of Hane allows “authorized users to...post for sale advertising avails or other inventory that permits the delivery of programming or other data, and allows authorized users to bid for and to purchase certain delivery commitments.” Id. In making a media buy, the advertiser of Hane may specify necessary parameters such as time frame, markets, length of advertisement and preemptability. Paragraph 52. However, it is the administrator of the advertiser in Hane that may “establish levels of access and set priorities for the use of available bandwidth and other inventory.”

Safadi teaches that a cue command, “includes descriptive parameters pertaining to the program attributes that the commercial must match.” Safadi lists rate as one such parameter. However, Safadi only speaks to the cue command issued by the advertiser.

The combination of Carles, Bryant, Hane and Safadi does not teach or suggest, “receiving, from a plurality of advertisers, a plurality of requests for advertisement presentation, **each request associated with an advertisement and including a maximum bid, advertisement characteristics comprising intended target market characteristics and minimum bandwidth requirements, wherein the minimum bandwidth requirements identify a required amount of bandwidth available within the program stream for the advertisement to be inserted...**,” as recited in independent claim 1. None of the references alone or in combination describe a request received from an advertiser having minimum bandwidth requirements identifying a required amount of bandwidth available within the program stream. While Hane may disclose the sale of bandwidth in general, it is the administrator in Hane that controls the use of the bandwidth. Similarly, in Safadi, cue tones describe the amount of bandwidth available, but the advertiser does not have any control over how much bandwidth will be allotted to the respective advertisement. Similarly, in Bryant, the system simply fills up the available bandwidth by selecting ads that fit within the fill segment. Thus, while the references

may teach selecting ads based on available bandwidth as in Safadi, none of the references allow the **advertiser to request a minimum amount of bandwidth** for insertion of the advertisement.

Since the combination of Carles, Bryant, Hane and Safadi fails to teach or suggest receiving an insertion request from an advertiser, the request identifying a minimum bandwidth requirement, the combination also does not teach:

selecting a targeted advertisement from the plurality of requests for insertion into the advertisement opportunity **based at least in part on...the minimum bandwidth requirements...**; and

compressing, based at least in part on the avail bandwidth, the **selected targeted advertisement such that the minimum bandwidth requirements are satisfied.**

Both the selecting and the compressing steps rely on the minimum bandwidth requirements received from the advertiser. Since the combination fails to teach receiving such a minimum bandwidth requirement from the advertiser, the combination cannot teach or suggest selecting a targeted advertisement based at least in part on the minimum bandwidth requirements and compressing the advertisement such that the minimum bandwidth requirements are satisfied.

Accordingly, for at least the reasons stated above, the combination of Carles, Bryant, Hane and Safadi does not teach or suggest each and every element of independent claim 1. Independent claims 22 and 25 recite features similar to those of independent claim 1 and are allowable for similar reasons. Dependent claims 3, 5-8, 10-18 and 23 are allowable based, at least in part, on their dependency on independent claims 1 and 22, respectively. Claims 9 and 19-20 were previously cancelled and thus the rejection of these claims is moot. Reconsideration and withdrawal of the Examiner's rejection under 35 U.S.C. §103(a) of claims 1, 3, 5-20, 22-23 and 35 are respectfully requested.

Conclusion

In view of the foregoing remarks, Applicants respectfully submit that the Examiner's rejection has been overcome, and that the application, including claims 1, 3, 5-8, 10-18, 22-23 and 25 is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejection and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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By: _____



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